

REMARKS

I. Summary of the Office Action

Claims 1-14 and 17-22 are pending in the application; claims 15 and 16 have been canceled. The Examiner has rejected claims 1-22 under 35 U.S.C. §102(b) , asserting that such claims are anticipated by U.S. Patent No. 5,664,111 to Nahan et al. ("Nahan"). The Examiner has also raised 101 rejections to claims 1-14 and 17-22.

II. Summary of this Reply

In this Reply, claims 1-14 and 19-22 are amended. In part, the amendments clearly recite the computer-based aspects of the claimed methods, computer hardware, and performance of steps by computer hardware. Reconsideration and withdrawal of the 101 rejection is requested respectfully.

III. Interview Summary

The Examiner is thanked for the telephone interview conducted on January 8, 2007. In the interview, the outstanding 102 rejection was discussed. No agreement was reached.

IV. Response to 102 Rejections

A rejection under 35 U.S.C. §102 is proper only if each and every element of the claim is found in a single prior art reference. MPEP § 2131. The Examiner has rejected claims 1-14 and 17-22 under 35 U.S.C. §102(b), asserting that each and every element of these claims are found in Nahan.

Claim 1

Independent claim 1 is directed to a computer-implemented method carried out by a specially configured computer. The method is neither taught nor suggested by the cited art.

By way of partial example, claim 1 recites that the marketer controller transmits data via a communications network that causes a seller's computerized device to "display via a display device a menu including a plurality of different options from which the seller may select an option, each of the plurality of different options corresponding to a respective method to be used by the marketer controller computer for deriving a sale price at which a buyer may purchase the independent seller's good, each of the respective methods being predetermined and stored in a memory accessible by the marketer controller computer." Accordingly, the seller selects from a menu of pricing methods, a specific method to be applied to determine a price for the seller's good; the seller does not specify a price. This is neither taught nor suggested by the cited art.

Further, claim 1 recites that the marketer controller computer receives selection data transmitted in electronic form via the communications network, and that "the selection data identif[ies] a certain selected option selected from the menu by the independent seller." This is neither taught nor suggested by the cited art.

Further, claim 1 recites that the marketer controller computer derives the sale price for the seller's good "by performing a function in accordance with logic specified by the certain respective method corresponding to the certain selected option selected from the menu by the independent seller." Accordingly, the marketer controller computer performs function consistent with the seller selected

method to determine a price for the independent seller's good. This is neither taught nor suggested by the cited art.

Finally, claim 1 recites that the marketeer controller computer transmits price data via the communications network to display to the buyer the derived sale price to present the good to the buyer as an item offered for sale at the sale price.

For at least these reasons, the claimed invention is neither taught nor suggested by Nahan. Reconsideration and withdrawal of the rejection are requested respectfully.

Claims 2-14 and 17-19

Claims 2 and 10 recite that "the sale price is not determined at a time proximate to the marketeer controller computer's receipt of data from the independent seller . . . , but instead is determined at a subsequent time, proximate a time of sale of the good to the buyer." No such sale price is determined by Nahan's system proximate a time of sale of the good to a buyer. Nahan's system never determines a sale price at which a buyer may purchase a good; instead, Nahan's system merely displays the suggested retail price, actual prices paid in prior sales, coded markup information, etc. Col. 13, lines 26-28.

Claims 3, 7, 11 and 13 recite that the method used by the marketeer controller computer includes "logic specifying that the marketeer controller identify and discount a manufacturer's suggested retail price for the independent seller's good." Nahan does not relate to a seller's selection of a predetermined method to be used by a marketeer controller computer to determine a sale price at which a buyer may purchase the independent seller's good.

Claims 4 and 8 recite that "the marketeer controller computer stores a database of manufacturer's suggested retail prices." Nahan does not relate to a seller's selection of a predetermined method to be used by a marketeer controller computer to determine a sale price at which a buyer may purchase the independent seller's good.

Claims 5, 9, 12 and 14 recite that the method used by the marketeer controller computer includes "logic specifying that the marketeer controller identify and discount a price for a certain good in new condition when the independent seller's good is the certain good in used condition." Nahan is devoid of any disclosure relating to presenting to the seller a menu including options corresponding to a pricing method involving pricing of a certain good in used condition by discounting a respective price for the good in new condition.

Claim 6 recites that "the independent seller agrees, before sale of the good, to sell the good at an unspecified sale price to be subsequently determined by the marketeer controller computer proximate a time of sale of the good to the buyer, provided that the sale price will be determined in accordance with the certain respective method . . .selected from the menu by the independent seller. This is neither taught or suggested by Nahan.

Claims 17-19 relate to display of the sale price via a website, and depend from claim 1 and are likewise patentable.

Accordingly, the claimed invention is neither taught nor suggested by Nahan. Reconsideration and withdrawal of the rejection of claims 1-14 and 17-19 are requested respectfully.

Claims 20-22

Claims 20-22 include recitations similar to those discussed above, and thus patentable for reasons similar to those set forth above, particularly with respect to claims 1, 2 and 6. Reconsideration and withdrawal of the rejection of claims 20-22 are requested respectfully.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe claims 1-14 and 17-22 to be patentable and the application in condition for allowance, and request respectfully issuance of a Notice of Allowance.

If any issues remain, the undersigned requests a telephone interview prior to the issuance of an action.

Respectfully submitted,

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